

RULES AND REGULATIONS

Title 22—EDUCATION

DEPARTMENT OF EDUCATION

[22 PA. CODE CH. 403]

Compliance with the No Child Left Behind Act of 2001

The Department of Education (Department) amends Chapter 403 (relating to compliance with the No Child Left Behind Act of 2001) to read as set forth in Annex A.

Contact Person

Questions regarding these standards should be directed to Ethan R. Cancell, Office of the Secretary, Department of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 346-3291.

Effective Date

The standards will be effective upon final-form publication in the *Pennsylvania Bulletin*.

Statutory Authority

The Department acts under the authority of section 2603-B(d)(10)(i) of the Public School Code of 1949 (code) (24 P. S. § 26-2603-B(d)(10)(i)), which was added by section 31 of the act of June 29, 2002 (P. L. 524, No. 88) (Act 88) and was amended by section 37 of the act of December 23, 2003 (P. L. 304, No. 48) (Act 48). Section 2603-B(d)(10)(i) of the code empowers the Department, with the approval of the State Board of Education (State Board), to adopt standards to comply with the provisions of the No Child Left Behind Act of 2001 (NCLB) (Pub. L. No. 107-110, 115 Stat. 1425) to maintain the eligibility of the Commonwealth to receive Federal funding for education programs. Acting under section 2603-B(d)(10)(i) of the code, the State Board approved these amended standards at its meeting of June 18, 2003. Prior thereto, as required by section 2603-B(d)(10)(iv) of the code, the Department submitted the standard to the Office of Attorney General, which determined that the standard is necessary to comply with the provisions of the NCLB and thereby to maintain the eligibility of the Commonwealth to receive Federal funding for education programs. Notice of the Attorney General's determination was provided to the State Board.

Standards promulgated by the Department under section 2603-B(d)(10)(i) of the code must be deposited with the *Pennsylvania Bulletin* for publication. (See section 26-2603-B(d)(10)(ii) of the code.) Standards adopted under section 2603-B(d)(10)(i) of the code on or before June 30, 2004, are exempt from the following laws:

(a) Sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1205), known as the Commonwealth Documents Law (CDL).

(b) The Regulatory Review Act (71 P. S. §§ 745.1—745.15).

See section 26-2603-B(d)(10)(iii) of the code.

In light of these exemptions, the Attorney General's determination of necessity under section 2603-B(d)(10)(iv) of the code and the express approval of the State Board under section 2603-B(d)(10)(i) of code, the Department is depositing these standards for publication in final-form.

Description of Process

On September 18, 2002, the Department presented to the State Board two sets of proposed standards necessary to comply with the NCLB. Included in the proposed standards were elements of the State Plan required for compliance with NCLB (20 U.S.C.A. §§ 6301—6578 and 6801—7014). At its September 19, 2002, meeting, the State Board publicly voted to approve the proposed standards presented by the Department. On September 26, 2002, the chairperson of the State Board signed the two resolutions approved by the State Board; and they were published at 32 Pa.B. 5151 (October 12, 2002). As required by section 2603-B(d)(10)(i) of the code, the Department deposited the standards for publication in the *Pennsylvania Bulletin*, see 32 Pa.B. 6096 (December 14, 2002). The standards now appear in Chapter 403.

On May 24, 2004, the Department submitted proposed amendments to the standards to the Attorney General for review under section 2603-B(d)(10)(iv) of the code. On June 3, 2004, the Attorney General determined that the proposed amendments to the standards satisfy the legal necessity test prescribed by section 2603-B(d)(10) of the code. The Department presented the amendments to the State Board for consideration and approval under section 2603-B(d)(10)(i) of the code. At its meeting held June 18, 2004, the State Board adopted a resolution approving the changes to the standards as proposed by the Department.

Background and Need for Standards

The President signed the NCLB into law on January 8, 2002. The NCLB, inter alia, amends Titles I and III of the Elementary and Secondary Education Act of 1965 (ESEA) (Pub. L. No. 89-10, 79 Stat. 27) (Improving the Academic Achievement of the Disadvantaged). Title I's purpose is to ensure that all children have the opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state achievement standards and academic assessments. In furtherance of this purpose, Title I provides grants to state education agencies and subgrants to local educational agencies (LEAs). To remain eligible for funding under Title I, state and local educational agencies must comply with the NCLB.

Section 1111(b)(2)(A) of Title I, as added by the NCLB (20 U.S.C.A. § 6311(b)(2)(A)), requires each state to demonstrate that it has developed and is implementing a single, statewide accountability system that will be of high quality, technically valid and reliable, aligned with the state's academic content and student achievement standards and based upon the same content expectations for all children. It is further required, by section 1111 of the NCLB, that the single, statewide accountability system be effective in ensuring that all LEAs, public elementary schools and public secondary schools make adequate yearly progress (AYP), as defined in section 1111(b)(2)(C) of Title I.

In addition, section 1111(b)(3)(A) of Title I requires that, beginning no later than the 2005-06 school year, states assess all students in grades three through eight against the challenging state academic content standards in, at a minimum, math and reading or language arts, or both, and, beginning in the 2007-08 school year, in science for students in grades four, seven and ten.

Section 3121 of Title III of the ESEA, added by the NCLB, requires each state to approve evaluation measures that are designed to assess the progress of children

in attaining English proficiency, including a child's level of comprehension, listening, speaking, reading and writing skills.

Description of Standards

The standards in Chapter 403 provide for a single, Statewide accountability system. More specifically, the standards provide for the fulfillment of the NCLB's assessment requirements and the calculation of the AYP. The standards, as amended by the Department with the approval of the State Board, reflect changes consistent with the requirements of the NCLB.

First, the amended standard, in § 403.3(d)(1) (relating to single accountability system), broadens the grade spans at which assessments in science and writing will be given. The expansion for science brings Pennsylvania's standard in line with the language of the NCLB, which allows for grade spans, rather than requiring testing at a specific grade. See section 1111(b)(3)(C)(v)(II) of the ESEA. Additionally, the terms "intermediate, middle and high school" are the terms used in the regulations of the State Board that appear in Chapter 4 (relating to academic standards and assessment), which no longer require education programs to be organized by specific grades. See §§ 4.21—4.23 and 4.42. The use of those broader terms to describe the levels at which student must be assessed under the NCLB will also provide greater flexibility and enable the Commonwealth to react to any changes contained in the nonregulatory guidance issued by the United States Department of Education interpreting the requirements of the NCLB.

The amendment to § 403.3(d)(1)(i) is based on some of the same reasons that explain the change in science assessment. In addition, the Department seeks greater flexibility in determining when to administer the writing assessment. This flexibility will enable the Department eventually to incorporate the writing assessment and the reading assessment into one assessment measuring achievement of standards in language arts. Without this change, the two assessments could not be combined because the reading assessment is conducted at different grade levels.

Second, the amendment to § 403.3(d)(2)(ii) reflects the fact that, to comply with the NCLB, the Department needs the flexibility to opt out of the assessment instrument being developed by the Consortium if the Department believes that the test does not conform to the Commonwealth's achievement standards for students of limited English proficiency. The amendments to § 403.3(d)(2)(iii) reflect the fact that the Department actually identified only one commercially developed language assessment and has contracted with the vendor to provide that assessment until a new assessment is available.

Third, the amendments to § 403.4 (relating to highly qualified teachers) have been made so that the standard is consistent with current practice. The Principles of Learning assessment is no longer in use. The Commonwealth has entered into the Interstate Certification Agreement, which supersedes the language that now appears in § 403.4(c)(2).

All of the changes described in the preamble are necessary for the Commonwealth to comply with the NCLB and, thereby, to remain eligible for Federal funding under Federal law.

Fiscal Impact

The standards in Chapter 403 are necessary to ensure that the State and its LEAs remain eligible to receive

Federal funding under Titles I and III of the ESEA. The amended standards will result in additional costs only to the Commonwealth because the Department has determined to use Federal funds to purchase the English language proficiency assessment for school districts. The Department will use Title III funds to meet the annual cost of approximately \$1.5 million under Title III of the ESEA (Language Instruction for Limited English Proficient and Immigrant Students), as amended by the NCLB.

Paperwork Requirements

These amended standards do not impose additional paperwork requirements.

Regulatory Review

Under section 2603-B(d)(10)(iii)(C) of the code, these standards are exempt from the Regulatory Review Act.

Findings

The Department finds that:

(1) Proposed rulemaking in advance of the promulgation of standards is not required under section 2603-B(d)(10)(iii)(A) of the code, as added by Act 88 and amended by Act 48, which expressly provides that the standards are exempt from the requirements of sections 201—205 of the CDL.

(2) The State Board approved the amendments to the proposed standards by public vote at its June 18, 2004, meeting.

(3) The promulgation of these standards is necessary for compliance with the NCLB.

Order

The Department, acting under the authorizing statute, orders that:

(a) The standards of the Department, 22 Pa. Code Chapter 403, are amended by amending §§ 403.3 and 403.4 to read as set forth in Annex A.

(b) The Secretary of Education will certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order is effective upon publication in the *Pennsylvania Bulletin*.

VICKI L. PHILLIPS,
Secretary

Fiscal Note: 6-291. (1) General Fund; (2) Implementing Year 2003-04 is \$877,000; (3) 1st Succeeding Year 2004-05 is \$1.5 million; 2nd Succeeding Year 2005-06 is \$1.5 million; 3rd Succeeding Year 2006-07 is \$1.5 million; 4th Succeeding Year 2007-08 is \$1.5 million; 5th Succeeding Year 2008-09 is \$1.5 million; (4) 2002-03 Program—\$562,000; 2001-02 Program—N/A; 2000-01 Program—N/A; (7) Title III—Language Instruction for LEP and Immigrant Students; (8) recommends adoption. Federal Title III Language Instruction for LEP and Immigrant Students funds will be used to cover this cost.

Annex A

TITLE 22. EDUCATION

PART XVI. STANDARDS

CHAPTER 403. COMPLIANCE WITH THE NO CHILD LEFT BEHIND ACT OF 2001

§ 403.3. Single accountability system.

(a) *Requirement of NCLB.* Section 1111 of Title I, added by NCLB (20 U.S.C.A. § 6311), requires each state to

develop and implement a single, statewide state accountability system that will be effective in ensuring that all LEAs, public elementary schools and public secondary schools make AYP as defined in section 1111(b)(2)(C) of Title I.

(b) *Proficiency as a measure of student progress.*

(1) As the starting point for calculating the AYP, the Department will use the proficient level of student performance, as adopted by the State Board on May 10, 2001. See 31 Pa.B. 2763 (May 26, 2001).

(2) Using data from the 2001-02 school year as the baseline, the Department will determine the number of students meeting or exceeding the proficient level of achievement on State assessments.

(c) *Adequate yearly progress.*

(1) The Department will calculate the AYP by using the "intermediate method" of calculation, involving "stepped goals."

(2) The Department will provide yearly targets to assist the LEAs in measuring progress within the intermediate method.

(3) The Department will use graduation rates as an additional indicator of the AYP for secondary schools and students.

(4) The Department will use child attendance rates as an additional indicator of the AYP for elementary schools and students.

(5) The Department will use 40 as the required number of students tested per building to form a group for the purposes of measuring the AYP of students with disabilities, limited English proficient students and students who are members of economically disadvantaged, major racial and ethnic groups.

(d) *Assessments.*

(1) Section 1111(b)(3)(A) of Title I specifically requires that, beginning no later than the 2005-06 school year, states must assess all students in grades three through eight against the challenging state academic content standards in, at a minimum, math and reading or language arts, or both. In addition, beginning in the 2007-08 school year, states must assess all students at least once in each of the intermediate, middle and high school levels against the challenging state academic content standards for science.

(i) To accomplish the mandates described in paragraph (1), the LEAs shall continue to use the PSSA to assess students in grades three, five, eight and eleven in reading and mathematics and to assess students at least once in each of the intermediate, middle and high school levels in writing.

(ii) The Department will supplement the PSSA with a single assessment for reading and mathematics that will be administered to students in each of grades four, six and seven.

(iii) The Value Added Assessment System shall be implemented as a component of the Commonwealth's assessment system to provide the LEAs with analyses and reports to offer valuable information for focused program improvement to increase performance.

(2) Section 3121 of Title III of the ESEA, added by the NCLB (20 U.S.C.A. § 6841), requires that each state approve evaluation measures that are designed to assess the progress of children in attaining English proficiency,

including a child's level of comprehension, listening, speaking, reading and writing skills in English.

(i) To accomplish the mandates described in paragraph (2), the Commonwealth will serve as the leader in a consortium of states seeking to develop a language proficiency assessment that will meet the needs of the NCLB.

(ii) The Department may use the consortium's assessment to evaluate the progress of students in attaining English proficiency, including a child's level of comprehension, listening, reading and writing skills in English.

(iii) The Department will identify commercially developed language proficiency assessment that the LEAs shall administer.

§ 403.4. Highly qualified teachers.

(a) *Requirements of NCLB.* With the exception of teachers teaching in a public charter school who are exempt from certification under section 1724-A of the Public School Code of 1949 (Public School Code) (24 P. S. § 17-1724-A):

(1) Section 1119(a) of Title I (20 U.S.C.A. § 6319(a) (relating to teacher qualifications and measurable objectives)), added by the NCLB, requires LEAs receiving assistance under the NCLB to ensure that, beginning with the 2002-2003 school year, all newly hired teachers supported with Title I funds are highly qualified.

(2) Section 1119(a) of Title I, added by NCLB, requires each state to ensure that all teachers teaching in core academic subjects within the state are highly qualified by the end of the 2005-2006 school year.

(b) *Current certification system.*

(1) The Department may continue to utilize the intern certification program described in Chapters 49 and 354 (relating to certification of professional personnel; and preparation of professional educators), which culminates in the issuance of an Instructional I Certificate (see §§ 49.91, 49.92 and 354.24(5) and (6) (relating to criteria for eligibility; term of validity; and academic performance)) to provide flexible and accelerated pedagogical training to teachers who have demonstrated competency in a subject area, provided that the first year of teaching includes intensive supervision by an approved institution.

(2) In accordance with Chapter 49, the student teaching semester is structured to include assessment of the pedagogical skills of teacher candidates.

(c) *Additional certification avenues.* Provided that at the time of application for Pennsylvania instructional certification, the applicant satisfies the basic certification requirements of the Public School Code (see 24 P. S. §§ 11-1109, 12-1202 and 12-1209 (relating to qualifications; State certificates; and disqualifications)), and all other requirements in Chapters 49 and 354 which are not contrary to paragraphs (1)–(3):

(1) Teachers holding an Instructional certificate issued under the Public School Code (24 P. S. §§ 1-101–14-1411) may add an instructional area to the certificate by passing an appropriate content area test in the area to be certified without meeting further academic and testing requirements.

(2) Candidates holding a valid and current instructional certificate issued by one of the states party to the Interstate Certification Agreement with Pennsylvania may be eligible for certification if they meet the requirements outlined in § 49.65 (relating to out-of-state and Nationally-certified applicants).

(3) Teachers successfully completing a National teacher-training program approved by the State Board that requires a candidate to demonstrate mastery of the subject area to be taught and professional knowledge needed for classroom effectiveness may be certified to teach in this Commonwealth without meeting further academic and testing requirements.

(i) To the extent that the approved National teacher-training program involves a classroom teaching component requiring certification, the Department may issue an intern certificate to the teacher for use during the program.

(ii) The American Board for Certification for Teacher Excellence and Teach for America were approved by the State Board by means of resolution on November 14, 2002. See 32 Pa.B. 6030 (December 7, 2002).

(iii) National teacher-training programs identified for State Board consideration after December 28, 2002, may be approved by State Board resolution without the need to amend this chapter.

(*Editor's Note:* For the text of new § 403.4(d), see 34 Pa.B. 3359 (June 26, 2004).)

[Pa.B. Doc. No. 04-1184. Filed for public inspection June 25, 2004, 9:00 a.m.]

[22 PA. CODE CH. 403]

Compliance with the No Child Left Behind Act of 2001

The Department of Education (Department) amends Chapter 403 (relating to compliance with the No Child Left Behind Act of 2001) to read as set forth in Annex A.

Contact Person

Questions regarding these standards should be directed to Ethan R. Cancell, Office of the Secretary, Department of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 346-3291.

Effective Date

The standards will be effective upon final-form publication in the *Pennsylvania Bulletin*.

Statutory Authority

The Department acts under the authority of section 2603-B(d)(10)(i) of the Public School Code of 1949 (code) (24 P. S. § 26-2603-B(d)(10)(i)), which was added by section 31 of the act of June 29, 2002 (P. L. 524, No. 88) (Act 88) and was amended by section 37 of the act of December 23, 2003 (P. L. 304, No. 48) (Act 48). Section 2603-B(d)(10)(i) of the code empowers the Department, with the approval of the State Board of Education (State Board), to adopt standards to comply with the provisions of the No Child Left Behind Act of 2001 (NCLB) (Pub. L. No. 107-110, 115 Stat. 1425) to maintain the eligibility of the Commonwealth to receive Federal funding for education programs. Acting under section 2603-B(d)(10)(i) of the code, the State Board approved these amended standards at its meeting of June 18, 2004. Prior thereto, as required by section 2603-B(d)(10)(iv) of the code, the State Board submitted the standards to the Office of the Attorney General, which determined that the standards are necessary to comply with the provisions of the NCLB and thereby to maintain the eligibility of the Common-

wealth to receive Federal funding for education programs. Notice of the Attorney General's determination was provided to the State Board.

Standards promulgated by the Department under section 2603-B(d)(10)(i) of the code must be deposited with the *Pennsylvania Bulletin* for publication, see section 26-2603-B(d)(10)(ii) of the code. Standards adopted under section 2603-B(d)(10)(i) of the code on or before June 30, 2004, are exempt from the following laws:

(a) Sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1205), known as the Commonwealth Documents Law (CDL).

(b) The Regulatory Review Act (71 P. S. §§ 745.1—745.15).

See section 26-2603-B(d)(10)(iii) of the code.

In light of these exemptions, the Attorney General's determination of necessity under section 2603-B(d)(10)(iv) of the code and the express approval of the State Board under section 2603-B(d)(10)(i) of the code, the Department is depositing these standards for publication in final-form.

Description of Process

On November 13, 2002, the Department presented proposed standards to the State Board addressing the highly qualified teacher requirements necessary to comply with the NCLB. Included in the proposed standards were elements of the State Plan required for compliance with the NCLB (20 U.S.C.A. §§ 6301—6578 and 6801—7014). At its November 14, 2002, meeting, the State Board publicly voted to approve the proposed standards presented by the Department. On November 14, 2002, the chairperson of the State Board signed the resolution approved by the State Board and it was published at 32 Pa.B. 6030 (December 7, 2002). As required by section 2603-B(d)(10)(i) of the code, the Department deposited the standards for publication in the *Pennsylvania Bulletin*, see 32 Pa.B. 6359 (December 28, 2002). The standards now appear in Chapter 403.

On June 8, 2004, the Department submitted proposed amendments to the standards to the Attorney General for review under section 2603-B(d)(10)(iv) of the code. On June 3, 2004, the Attorney General determined that the proposed amendments to the standards satisfy the legal necessity test prescribed by section 2603-B(d)(10)(iv) of the code. The Department presented the amendments to the State Board for consideration and approval under section 2603-B(d)(10)(i) of the code. At its meeting held on June 18, 2004, the State Board adopted a resolution approving the changes to the standards as proposed by the Department.

Background and Need for Standards

President George W. Bush signed the NCLB into law on January 8, 2002. The NCLB, inter alia, amends Titles I and III of the Elementary and Secondary Education Act of 1965 (ESEA) (Pub. L. 89-10, 79 Stat. 27) (Improving the Academic Achievement of the Disadvantaged), 20 U.S.C.A. (section 9532 of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the No Child Left Behind Act of 2001) et seq. Title I's purpose is to ensure that all children have the opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state achievement standards and academic assessments. In furtherance of this purpose, Title I provides grants to state education agencies and subgrants to local educational agencies. To remain eligible for funding under Title I, state and local educational agencies must comply with the NCLB.

Section 1119 of Title I, as added by the NCLB (20 U.S.C.A. § 6319 (relating to qualifications for teachers and paraprofessionals)) provides that each state education agency receiving assistance under the act must ensure that all teachers teaching in core academic subjects within the state are highly qualified by the end of the 2005-2006 school year. The NCLB defines a highly qualified middle or secondary school teacher as a teacher who has a bachelor's degree and has either passed a core content area test or has an academic major, graduate degree or coursework equivalent to an undergraduate major in the subject area to be taught.

In Non-Regulatory Guidance issued by the United States Department of Education dated January 16, 2004, states were advised of the opportunity to use a process called High, Objective, Uniform State Standard of Evaluation (HOUSSE) to determine when experienced middle and secondary school teachers and teachers of multiple core subjects can be considered highly qualified as required by the NCLB. The purpose of this evaluation process is to permit states to consider experienced teachers who meet designated criteria as highly qualified under the NCLB.

In November 2002, based on the guidance then available, the State Board adopted a resolution providing that teachers who are fully certified in this Commonwealth are highly qualified, with the exception of teachers teaching grades seven and eight without content area certification. This latter group of teachers were required to obtain content area certification by the end of the 2005-2006 school year. However, the Non-Regulatory Guidance, issued in January, clarified the United States Department of Education's requirements regarding highly qualified teachers. As a result, certain special education teachers, teachers in alternative education programs, certain English-as-Second Language teachers and others may now be considered highly qualified under an alternative evaluation system.

Description of Standards

The standards in § 403.4 (relating to highly qualified teachers) address compliance with the highly qualified teacher requirements of the NCLB. They also provide additional certification avenues for individuals wanting to become fully certified as well as for currently certified teachers, who because of their classroom assignment, are not considered highly qualified. The standards, as amended by the Department with the approval of the State Board, reflect changes consistent with the NCLB. Subsection (d) is added to § 403.4 to establish an additional pathway for certain currently certified teachers to be designated as highly qualified to meet the NCLB requirements by obtaining certification in the instructional area in which they teach.

This change is necessary for the Commonwealth to comply with the NCLB and, thereby, to remain eligible for Federal funding under Federal law.

Fiscal Impact

The standards in Chapter 403 are necessary to ensure that the Commonwealth and its LEAs remain eligible to receive Federal funding under the ESEA. The amended standard will result in additional costs to the Commonwealth to review and process an undetermined number of applications for NCLB Bridge Certificates. Since currently certified teachers, who are eligible for the NCLB Bridge Certificate, may also pursue one of the other pathways to certification and the resulting designation as being highly qualified, or schools may reassign teachers

to classroom assignments where they are considered highly qualified, it is not possible to accurately estimate the number of applications that will be submitted for the NCLB Bridge Certificate nor the corresponding cost.

Paperwork Requirements

These amended standards do not impose additional paperwork requirements.

Regulatory Review

Under section 2603-B(d)(10)(iii)(C) of the code, these standards are exempt from the Regulatory Review Act.

Findings

The Department finds that:

(1) Proposed rulemaking in advance of the promulgation of standards is not required under section 2603-B(d)(10)(iii)(A) of the code, as added by section 31 of Act 88 and amended by section 37 of Act 48, which expressly provides that the standards are exempt from the requirements of the CDL.

(2) The State Board approved the amendments to the proposed standards by public vote at its June 18, 2004, meeting.

(3) The promulgation of these standards is necessary for compliance with the NCLB.

Order

The Department, acting under the authorizing statute, orders that:

(a) The standards of the Department, 22 Pa. Code Chapter 403, are amended by amending § 403.4 to read as set forth in Annex A with ellipses referring to the existing text of the regulation.

(b) The Secretary of Education will certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order is effective upon publication in the *Pennsylvania Bulletin*.

VICKI L. PHILLIPS,
Secretary

Fiscal Note: 6-292. (1) General Fund; (2) Implementing Year 2004-05 is \$117,000; (3) 1st Succeeding Year 2005-06 is \$39,000; (3) 2nd Succeeding Year 2006-07 is \$39,000; 3rd Succeeding Year 2007-08 is \$39,000; 4th Succeeding Year 2008-09 is \$0; 5th Succeeding Year 2009-10 is \$0; (4) 2003-04 Program—\$2.458 million; 2002-03 Program—\$2.458 million; 2001-02 Program—\$2.458 million; (7) General Government Operations; (8) recommends adoption. The fee submitted by each applicant will cover the additional administrative costs incurred by the Department to process the applications.

Annex A

TITLE 22. EDUCATION

PART XVI. STANDARDS

CHAPTER 403. COMPLIANCE WITH THE NO CHILD LEFT BEHIND ACT OF 2001

§ 403.4. Highly qualified teachers.

(*Editor's Note:* For the text of the amended § 403.4(a)—(c), see 34 Pa.B. 3357 (June 26, 2004).)

* * * * *

(d) *NCLB Bridge Certificates.*

(1) Teachers holding a level I or II certificate issued prior to July 1, 2004, and who are employed in one of the

following listed circumstances may be awarded an NCLB Bridge Certificate if qualified therefore under paragraph (4):

(i) Teaching in grades seven, eight or nine in a middle/junior high school.

(ii) Teaching in a Department-approved Alternative Education Program.

(iii) Teaching direct core academic content on the secondary level and possess either an English as a Second Language or Special Education certificate.

(2) NCLB Bridge Certificates will not be issued to applicants after July 1, 2005. The Secretary of Education may extend this deadline on an individual, case-by-case basis, when exceptional situations warrant.

(3) The NCLB Bridge Certificate is valid for 3 years or until an earlier time at which the individual is awarded an Instructional I Certificate under paragraph (5). The NCLB Bridge Certificate cannot be renewed.

(4) Qualification for issuance of an NCLB Bridge Certificate shall be based on an evaluation system developed by the Department. The evaluation system shall be used to determine whether the applicant is highly qualified in the academic discipline or disciplines in which the applicant is teaching using the following criteria:

(i) Satisfactory teaching experience in delivering instruction in the academic content area at the appropriate level.

(ii) Professional education activities credited under section 2603-B(d) of the Public School Code of 1949 (24 P. S. § 2603-B(d)) (Act 2003-48) in the direct academic content area in which the applicant teaches. This may include college credit, postsecondary degrees and approved continuing professional education hours.

(iii) College credits earned in the academic subject area in which the applicant teaches.

(iv) Academic scholarship in the academic content area in which the applicant teaches, including the following:

(A) Recognition as school district or State teacher-of-the-year.

(B) Recipient of a State or National teaching award.

(C) Authorship of an article in a peer review journal.

(D) Authorship of a published textbook.

(E) Teaching a credit-based course at an approved postsecondary institution.

(v) Tutoring students in the academic content area in which the NCLB Bridge certificateholder seeks full certi-

fication in a satisfactory manner on a sustained basis in a structured, Department-approved tutoring program.

(5) An individual who holds an NCLB Bridge Certificate, awarded through the procedure outlined in paragraph (1), may be awarded an Instructional I Certificate based on evaluation of the applicant's experience, professional education and related professional criteria while engaged in teaching under the NCLB Bridge Certificate. The evaluation shall include the following:

(i) Satisfactory teaching experience in delivering instruction in the content area or areas at the appropriate level since receipt of their NCLB Bridge Certificate.

(ii) Professional education activities credited under sections 1205.1 and 1205.2 of the Public School Code of 1929 (24 P. S. §§ 12-1205.1 and 12-1205.2) in the direct content area or areas since receipt of their NCLB Bridge Certificate. This may include college credit, postsecondary degrees and approved continuing professional education hours directly in the content area or areas in which the applicant seeks certification.

(iii) College credits achieved in the academic subject area being taught or assessed.

(iv) Academic scholarship in the academic content area that one teaches including:

(A) School district or State teacher-of-the-year.

(B) Recipient of a State or National teaching award.

(C) Authorship of a published textbook in the content area.

(D) Authorship of an article within the academic field the individual instructs published in a peer review journal.

(E) Teaching the content area in a credit-based postsecondary institution.

(F) National board certification during the period in which the individual held the NCLB Bridge Certificate.

(6) The Department will develop and submit for the approval of the State Board the applicant evaluation and NCLB Bridge Certificateholder evaluation systems described in paragraphs (3) and (4) prior to November 1, 2004.

[Pa.B. Doc. No. 04-1185. Filed for public inspection June 25, 2004, 9:00 a.m.]

